

THE HON'BLE SRI JUSTIFE D. APPARAO

W.P.No. 10109 of 2006

The owner of the lorry bearing No.KA-04-A-5026 is the writ petitioner. The said lorry was confiscated when it was carrying 1200 arrack sachets. The driver was arrested and a case was registered. When the owner of the lorry sought the release of the vehicle the Deputy Commissioner of Prohibition and Excise released the vehicle on the petitioner furnishing bank guarantee of Rs.2,25,000/-. Assailing the said order the present writ petition was filed alleging that the imposition of condition of furnishing of bank guarantee of Rs.2,25,000/- is onerous since the vehicle is not that worth. He is not in a position to furnish, as he is in precarious circumstances.

Heard the learned counsel for the petitioner as well as the learned Government Pleader for Excise. On the request of both sides, the writ petition is taken up for final disposal.

Considering the facts and circumstances of the case, and in view of financial circumstances, I feel that the order of the Deputy Commissioner directing furnishing bank guarantee of Rs.2,25,000/- for release of the lorry is onerous and the same is modified directing the petitioner to furnish bank guarantee for Rs.One Lakh and further to furnish third party security for the remaining Rs.1,25,000/- to the satisfaction of the Deputy Commissioner of Prohibition and Excise, Anantapur. The petitioner shall not alienate or encumber the vehicle. He shall given an undertaking to that effect while taking return of the vehicle.

The writ petition is accordingly disposed of with the above observations. No costs.

24th May, 2006

BJ/